

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CRIMINAL NO. 1: CR-01-018

v.

GEOVANNI DAVILA

O R D E R

The background of this order is as follows:

On December 5, 2006, this court issued an order denying Petitioner's motion filed pursuant to 28 U.S.C. § 2255. It appears that Petitioner did not receive this order until January 30, 2006.¹ On February 9, 2006, Petitioner filed a notice of appeal of the December 5, 2005 order. On February 27, 2006, Petitioner filed a motion for an extension of time to file a notice of appeal pursuant to Rule 4 of the Federal Rules of Appellate Procedure.

Rule 4(a)(1)(B) provides that when the United States is a party, the time to file a notice of appeal may be 60 days after the judgment or order is entered. The time for filing the notice of appeal in this case would have been February 3, 2006. Petitioner, being in transit, did not receive notice of this court's order until January 30, 2006. Thus, this court believes that Petitioner has shown good cause for not filing the notice of appeal within the

¹Petitioner was in holdover status in Oklahoma en route to his designated place of confinement.

60 day period and will deem the filing of the notice of appeal on February 9, 2006 as timely.

It does not appear that Petitioner served the motion for extension of time on Respondent. **IT IS THEREFORE ORDERED THAT** the Government shall show cause by Friday, March 3, 2006, why Petitioner's appeal should not be deemed timely filed.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: February 28, 2006.